REMARKS

Applicants thank the Examiner for the careful consideration of this application. Claims 1-26 are currently pending. Based on the foregoing amendments and the following remarks, Applicants respectfully request that the Examiner reconsider all outstanding rejections and that they be withdrawn.

(A) Claims 1, 3, and 7-9 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,932,230 to Pedmo et al. The Office Action indicated that the Declaration under 37 C.F.R. § 1.131 previously submitted was not effective, because it did not establish a conception and reduction to practice of the invention ***in this country or a NAFTA or WTO*** member country. In response, the Applicants submit herewith a Second Declaration under 37 C.F.R. § 1.131 swearing behind the August 15, 2003 effective date of Pedmo, ***based on acts in the Unites States***. Accordingly, the Applicants submit that Pedmo is not prior art to the present invention. Therefore, the Applicants respectfully request that this rejection be withdrawn.

(B) Claims 4-6, 13, and 15-18 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Pedmo. In view of the Second Declaration under 37 C.F.R. § 1.131, submitted herewith, Pedmo is not prior art to the present invention. Therefore, the Applicants respectfully request that this rejection be withdrawn.

(C) Claims 10-12 and 19 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Pedmo in view of Japanese Reference JP 2002-326618. In view of the Second Declaration under 37 C.F.R. § 1.131, submitted herewith, Pedmo is not prior art to the present invention. The JP '618 reference on its own does not disclose or suggest the invention of claims

10-12 and 19. Accordingly, the Applicants respectfully request that this rejection be withdrawn.

(D) Claims 1, 3-6, 8, 9, 13, 15, 16, 18, 20, 22, and 24 stand rejected under 35 U.S.C. § 102(b) as being anticipated by or obvious under 35 U.S.C. § 103 over JP 5-310239 to Morizumi. The Applicants respectfully traverse this rejection.

Independent claims 1, 13, and 20 have been amended to recite that "the vacuum panel compris[es] an upper panel portion, a lower panel portion, and a middle panel portion, wherein the upper panel portion and the lower panel portion are located radially closer to the central axis than is the middle panel portion." An exemplary embodiment of this is shown in the cross-sectional view of FIG. 4 of the present application, where the upper panel portion and lower panel portion (both labeled 120) are both located radially closer to the central axis of the container than is the middle panel portion (comprising parts 132, 134, and 136). As a result of this exemplary configuration, the upper panel portion and lower panel portion can act as belts (having a smaller circumferential length) that can prevent the vacuum panel and/or container sidewall from expanding under pressure. Morizumi does not disclose or suggest the claimed arrangement. Just the opposite, the upper panel portion 12a and lower panel portion 12c of Morizumi are located radially ***further*** from the central axis than is the central panel portion 12b. (See Morizumi at Fig. 3.)

In addition, the upper panel portion 12a, central panel portion 12b, and lower panel portion 12c of Morizumi do not comprise a raised ***island*** protruding from a vacuum panel and ***surrounded by*** the vacuum panel, as recited by independent claims 1, 13, and 20, because portions 12a, 12b, and 12c ***are*** the vacuum panel.

For the above reasons, the Applicants submit that independent claims 1, 13, and 20, as well as their respective dependent claims, are patentable over Morizumi.

(E) Claims 7, 17, and 23 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Morizumi in view of U.S. Design Patent No. 440,877 to Lichtman.

Claims 7, 17, and 23 depend from independent claims 1, 13, and 20, respectively. As demonstrated above, Morizumi does not disclose or suggest the "vacuum panel comprising an upper panel portion, a lower panel portion, and a middle panel portion, wherein the upper panel portion and the lower panel portion are located radially closer to the central axis than is the middle panel portion," as recited by the independent claims. In addition, Lichtman does not provide the missing disclosure. Referring to FIGS. 1-3 of Lichtman, nowhere does it disclose or suggest that the upper and lower portions of the panel (located above and below the I-shaped protrusion, respectively) are located radially closer to the central axis of the container than is the middle portion (located on both sides of the I-shaped protrusion). Therefore, independent claims 1, 13, and 20 are patentable over any combination of Morizumi and Lichtman. Claims 7, 17, and 23 depend from claims 1, 13, and 20, respectively, and are patentable for at least the same reason.

(F) Claims 1, 3-9, 13, 15-18, 20, and 22-24 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Lichtman or U.S. Design Patent No. 413,519 to Eberle et al. in view of WO 97/34808 to Tobias et al.

As stated above, independent claims 1, 13, and 20 have been amended to recite that "the vacuum panel compris[es] an upper panel portion, a lower panel portion, and a middle panel portion, wherein the upper panel portion and the lower panel portion are located radially closer to

the central axis than is the middle panel portion." Lichtman does not disclose or suggest this claim feature, as demonstrated in part E, above. Eberle likewise does not disclose or suggest this feature. That is, referring to FIGS. 1-3, nowhere does Eberle disclose or suggest that the upper and lower portions of the vacuum panel (above and below the protrusion, respectively) are located radially closer to the container's central axis than is the middle portion (left and right of the protrusion). Tobias also does not disclose or suggest this feature. Therefore, independent claims 1, 13, and 20, as well as their respective dependent claims, are patentable over any combination of Lichtman, Eberle, and Tobias.

(G) Claims 10-12, 19, 25, and 26 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Lichtman or Eberle in view of Tobias and further in view of the JP '618 reference.

Claims 10-12, 19, 25, and 26 depend variously from independent claims 1, 13, and 20. As demonstrated above in part F, claims 1, 13, and 20 are patentable over any combination of Lichtman, Eberle, and Tobias. The JP '618 reference does not provide the missing disclosure. Therefore, claims 1, 13, and 20 are patentable over any combination of Lichtman, Eberle, Tobias, and the JP '618 reference. Claims 10-12, 19, 25, and 26 are patentable for at least the same reasons.

Conclusion

All of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicants, therefore, respectfully request that the Examiner reconsider all presently outstanding rejections and that they be withdrawn. Applicants believe that a full and

complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is hereby invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this Amendment is respectfully requested.

Respectfully submitted,

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Enclosures:

Second Declaration Under 37 C.F.R. § 1.131 with Exhibit

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